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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/652,695	08/31/2000	Jim B. Estipona	INTL-0448-US (P9559)	3818
7590	01/15/2004			
Timothy N Trop Trop Pruner & Hu PC Ste 100 8554 Katy Freeway Houston, TX 77024			EXAMINER CORNWELL, BRIAN I	
			ART UNIT	PAPER NUMBER
			2614	
			DATE MAILED: 01/15/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/652,695

Applicant(s)

ESTIPONA, JIM B.

Examiner

Brian Cornwell

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 10/20/2003 have been fully considered but they are not persuasive.

As to claim 1, the reference discloses the announcement of particular broadcasts (pg. 13). The Office recognizes an Electronic Program Guide (EPG) as a particular broadcast.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. Claims 1-6,8-12,14-16,17,21-22,24-25 rejected under 35 U.S.C. 103(a) as being unpatentable over the Advanced Television Enhancement Forum Specification (ATVEF) Version 1.1r26, cited by applicant.

As to claim 1, ATVEF discloses transmitting and receiving enhanced television content and Session Description Protocol (SDP) records (pg.10 par.5-6 and pg.12 par.6). The reference particularly discloses the use of session announcements that include unique session identifiers (which by definition must be numeric strings) having values that announce the availability of particular broadcasts, which “can be a permanent announcement for all programming on a broadcast channel or for a particular show” (pg.13). The reference does not disclose the availability of an Electronic Program Guide (EPG) as programming on a broadcast channel. However the examiner gives official notice that it is notoriously well known in the art of television broadcasting to broadcast an EPG for the purpose of efficiently navigating through available programming and data services. Therefore it is submitted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the ATVEF announcement to announce the availability of an EPG for the purpose of making the viewer aware of the EPG’s availability.

As to claim 2, ATVEF discloses the use of announcements to announce currently available programming to the receiver. The reference particularly discloses the “owner & session identifier, defined in SDP spec. (RFC 2327)” (pg.13).

Claim 3 is met by that discussed above for claim 1.

Claim 4 is met by that discussed above for claim 1.

As to claim 5, the reference discloses the use of any numeric string for the session identifier. While the reference does not disclose the use of the specific number chosen by the applicant, this is not considered to be a patentable distinction. Therefore it is submitted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a number indicative of a much earlier time frame in NTP-format for the purpose of using a value that is unlikely to be used (while in NTP-format), as a matter of design choice.

As to claim 6, ATVEF discloses the use of a session name in the SDP announcement (pg.13) as claimed.

Claim 8 is met by that discussed above for claim 1.

Claim 9 is met by that discussed above for claim 2.

Claim 10 is met by that discussed above for claim 1.

Claim 11 is met by that discussed above for claim 1.

Claim 12 is met by that discussed above for claim 5.

Claim 14 is met by that discussed above for claim 1.

Claim 15 is met by that discussed above for claim 1.

Claim 16 is met by that discussed above for claim 5.

Claim 17 is met by that discussed above for claim 1.

Claim 21 is met by that discussed above for claim 1.

Claim 22 is met by that discussed above for claim 1.

Claim 24 is met by that discussed above for claim 1.

As to claim 25, the ATVEF discloses extracting and comparing version numbers, which can be in NTP format, from within the SDP records (pg.13), as claimed.

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3. Claims 7,13,18-20,23 rejected under 35 U.S.C. 103(a) as being unpatentable over the ATVEF in view of Gagnon et al (6,522,342), cited by examiner.

As to claim 7, ATVEF discloses everything, as described above, except the claimed “human readable session name indicative of an electronic programming guide”. Gagnon et al discloses several examples of session announcement records in announcing the availability of enhanced television content. The reference particularly discloses the use of a human readable session name that is descriptive/indicative of the television enhancement (s=Data Catalog; fig.32B). The reference further particularly discloses the use of a session name that is descriptive/indicative of the broadcast channel carrying the enhancement (s=CNBC; fig.32D). While the reference does not disclose the use of the specific name chosen by the applicant, this is not considered to be a patentable distinction. Therefore it is submitted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a name descriptive/indicative of a broadcast channel containing an EPG for the purpose of further informing the viewer of the enhancement.

Claim 13 is met by that discussed above for claim 7.

As to claim 18, the ATVEF discloses everything, as described above, except the indication of “whether the enhanced television content includes an” EPG. Gagnon et al discloses an indication of the availability of an EPG in the main user interface (fig.2A (152)).

As to claim 19, Gagnon et al also discloses the use of a version number within the “o” field. The version number indicates the number of previous versions of the enhancement content records (col.35 ln.41-45), as claimed.

As to claim 20, it is inherent within the SDP to process the announcement without regard

to the enhancement, if the version number is not higher than the previously received version numbers.

Claim 23 is met by that discussed above for claim 20.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Cornwell whose telephone number is 703-305-6955. The examiner can normally be reached on M-F 6-4 (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 703-305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4357.

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BIC  
January 5, 2004

  
JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600